

**MINUTES OF THE REGULAR MEETING OF THE ZONING PLANNING & APPEALS  
COMMISSION OF THE VILLAGE OF METTAWA, LAKE COUNTY, ILLINOIS,**

**HELD AT THE HOUR OF 7:00P.M. ON TUESDAY, MARCH 5, 2013  
IN THE MAPLE ROOM OF THE HILTON GARDEN INN,  
26225 N. RIVERWOODS BOULEVARD, METTAWA, ILLINOIS**

**I. CALL TO ORDER**

Chairman Krusinski called the meeting to order at 7:04 P.M.

**II. ROLL CALL**

Upon a call of the roll, the following persons were:

Present: Commissioners Busscher, Leonard, Meluso, Miller, Pickell and Chairman Krusinski  
Absent: Commissioner Hirsch.

Chairman Krusinski declared a quorum present.

Also present: Commission secretary, Cathy Nelson and Village Attorney Gregory T. Smith of Klein, Thorpe & Jenkins, Ltd.

**III. APPROVAL OF MINUTES**

Minutes of the regular meeting of December 4, 2012 and special meeting of December 13, 2012.

It was moved by Commissioner Leonard, seconded by Commissioner Meluso to approve the minutes from December 4, 2012 and December 13, 2012 and place them on file.

The Following voted:

Aye: All

Nay: None

Commissioner Krusinski declared the motion carried.

**IV: CALL OF CASES:** No cases were called

**V. DELIBERATION AND RECOMMENDATION:** There were neither deliberations nor recommendations

**VI. COMMUNICATIONS:** There were no communications

**VII. REVIEW OF REPORTS OF COMMISSION COMMITTEES:** None Presented

**VIII. OLD BUSINESS:** No old business to be discussed

**IX. NEW BUSINESS**

Chairman Krusinski explained to the Commissioners that the purpose of this meeting is educational and workshop on the six items referred to the commission by the Village Board for a recommendation. Attorney Smith explained that the Board cannot change the text of the zoning code until it is reviewed and new language crafted by the commission,

a Public Hearing is held and the Findings of Fact and recommendation are presented to the Board.

a. Discussion of Village Board Resolution No. 13-1 being “A Resolution Authorizing The Submission of Proposed Zoning Code Text Amendments to the Village of Mettawa’s Zoning, Planning, and Appeals Commission “Regarding Such Matters as 1) Cannabis Regulations, 2) Floor Area Limits in the R-1, 3) Non-conforming Use Sunset Clauses and 4) The Definition of Large Stable and so on.”

1) Cannabis Regulations:

Attorney Smith explained that the board is making a conditional referral of this item to the commission, that if the State of Illinois passes the medical marijuana law, the Board wants the commission to recommend what regulations to put on the activity. The law if passed does not allow the Village to prohibit the sale of medical marijuana; it must allow a dispensary in each senate district. And if the Village has to allow it, please put it in the O/R district. Attorney Smith will monitor the situation and keep the commission informed.

2) Floor Area Limits in the R-1 district.

Attorney Smith stated that the Board via Trustee Towne has asked this commission to consider amending the area standards in the R-1 single family district, and language related to accessory buildings and an area of 2000 square feet.

He asked Trustee Towne to explain what he is thinking of in regards to these issues. Trustee Towne felt that the redundancy and ambiguity in the ordinances needed to be cleaned up, especially in regards to the 3,000 foot area for a home and 2000 foot area for accessory building, the definition of “area” and the impact on smaller homes that may have to be rebuilt.

Discussion ensued on how to change the language to protect the rights of residents in regards to the current codes, when the home was built and when they purchased the home.

Discussion ensued on how to clean up the inconsistencies Chairman Krusinski questioned whether it is the inconsistencies or the size requirements that bothered Trustee Towne. He stated that perhaps the size requirements should also be addressed. Discussion ensued regarding what the minimum livable square footage should be, and what is considered as “area”.

Attorney Smith stated that any resident could ask for a variance from the existing code, but that involves time and money, so the question is whether the commission wants to give them relief or hold them to asking for a variance. It was agreed that the code should be corrected to give residents relief from having to obtain a variance, but the wording is up for further discussion.

Chairman Krusinski asked for clarification of the revisions asked for by the Board in section 3c of the code. Attorney Smith stated that none have been proposed by the Board, but that Trustee Towne is proposing the language that would allow someone to rebuild.

Regarding accessory building with 2000 square feet or greater being a special use that needs to be clarified by the commission as to what kind of area we are talking about. There is ground floor area in the code that has a definition, but some wording need to be added.

Chairman Krusinski requested that Attorney Smith provide language for the commission with definitions to consider as the next step to eliminate ambiguity.

Commissioner Pickell stated that there are many ways to do the area calculations and everyone does it differently. What needs to be looked at is what the impact is to the community and the neighbor. It could be square footage, it could be volume. Discussion ensued, regarding height limitations and area. The ability to grant a variation is important. There is an industry standard of outside outside walls including garages that would be your footprint at grade.

Attorney Smith stated that it is important to define what type of area the commission is talking about for the 2000 square feet. Ground area or total of all floors.

Trustee Towne stated that administratively it is not as difficult to send a case to the commission regarding barns because the code is loose, but it is difficult if it is someone's dream home.

Discussion continued and Chairman Krusinski stated that the ground floor definition is what needs clarification not the total areas.

Commissioner Pickell stated that for accessory buildings it was a matter of defining what the 2000 square foot area encompasses maximum overhang, and put a volume to it and roof height. Also that the current 45' roof for a 2000 square foot barn is too high

Discussion continued regarding barn specs and roof heights.

Attorney Smith stated that no changes to lot area and percentage of buildings has been requested by the board

Attorney Smith was directed to craft language for commission review at the next regular meeting.

### 3) Non-conforming Use Sunset Clauses

Attorney Smith gave background on this issue and the code. A non-conforming use or building is one that has become illegal because the zoning ordinance has been amended.

There are several ways to deal with non-conforming uses. 1. Allow them to exist in perpetuity or 2. Allow them to “sunset”, (phase out) over a period of time. The Board has proposed some language.

Also, the Board has requested a recommendation on language that clarifies the code as to how to handle the transfer and sale of stables that clarifies the code. They are technical changes that require the commission to look at the zoning ordinance carefully.

What the commission needs to decide on is to what extent the village allows people to continue to use property that was legal when they began but is no longer illegal today.

Discussion as to why this was an issue with the board. Trustee Towne felt it was a matter of trying to bring non-conforming uses into conformance. Each Village stable has different language and while there have been no issues with stables their rules should be equalized.

Commissioner Pickell felt that all stables can be different because they all have individual contracts and should be considered separately. He requested examples. What are we trying to achieve?

Discussion and confusion ensued.

Trustee Towne stated that he believed the board is trying to eliminate as many issues as possible that may lead to lawsuits.

Trustee Smith suggested everyone read the board proposals and the ordinance and come back with questions and further discussion.

#### 4) Large Stable Definition

Chairman Krusinski stated that the purpose of these proposed revisions to this code is to clean up the ambiguities in the current code regarding large barns and Special Use Permits

Attorney Smith gave the commissioners background on this amendment request and why it has come up for revision. The question is, should the definition of Large Stable which is allowed in the R-1 district be amended to be consistent with the definition of Semi-Private Stable which is allowed in the R-2 district?

In R-1, Large Stables do not have permission to charge for boarding and feed. The R-1 district has minimum 5-acre size lots

In R-2, Semi Private Stables are allowed to charge for boarding and feed. The R-2 district has is 2 acre size lots

Discussion ensued regarding when R-2 districts were initiated and the location of these parcels. It was assumed somewhere around 1992. Discussion continued regarding the discrepancy in the language. Commissioner Pickell suggested that if no one in the R-2 districts is using the language, why not just take it away. Then leave R-1 alone.

After some discussion it was determined that according to code you can have a barn on less than 5 acres lot and that it does not require a special use permit if you have only the

number of horses and barn size allowed. Attorney Smith stated that this issue is not up for consideration by the commission at this time.

Commissioner Leonard asked that the commission be given information of exactly where and what the code says regarding who can or cannot have horses. Attorney Smith explained the code.

Chairman Krusinski stated that there is confusion in the ordinances and the board is asking that it be cleaned up going forward. What is in the past cannot be changed. He asked if the R-2 issue can be addressed. Attorney Smith stated that it was not before the commission and therefore cannot be addressed except as it impacts what the commission has been asked to consider.

Commission Leonard stated that she felt it was important to note how ambiguous it is between R-2 and R-1 and this need to be also to be addressed because it is causing a problem with their dealing with what the commission has been asked to accomplish.

Attorney Smith felt that the proper place for these comments is in the Findings of Fact.

Trustee Towne stated that the Village has had very few, possibly only one complaint regarding horses since he has been in office.( 2 years). He also suggested that the commission take its time in cleaning up the code....the board is not in a hurry and there are several items that will need to be addressed.

Discussion ensued regarding confusion in definitions in the code in regards to the Lutz Schlicht Barn Case that was before the Commission recently

Discussion ensued as to whether R-1 or R-2 needed to be changed. Chairman Krusinski stated that the direction from the Board is to fix the code so that the issues of large barn/semi-private barn and boarding are easy to deal with in future appeals and can hold up in court. He feels that the commercial issue is where residents have a high level of concern.

It was requested that the secretary get updated zoning maps to the commissioners.

Discussion ensued regarding how changes in the code might effect the Pegaso lawsuit.

After some explanation, Attorney Smith stated that nothing the ZPA is doing will have anything to do with the lawsuit.

It was asked if the R-2 wording could be considered and Attorney Smith stated that anyone or the commission could put in an application requesting such consideration.

It was agreed that this should be done.

It was then moved by Commissioner Leonard, seconded by Commissioner Pickell that an application be made by the Zoning, Planning and Appeals commission to the Zoning, Planning and Appeals commission to consider whether the definition of semi-private stable be amended.

Upon a call of the roll, the following voted:

Aye: Commissioners Busscher, Leonard, Meluso, Miller, Pickell and Chairman Krusinski

Nay: None

Chairman Krusinski declared the motion carried and directed Attorney Smith to draft the application

### 5) Notice Standards

Attorney Smith explained that due to resident complaints, the board felt the 1000 foot area was too small for zoning case notification and has requested the commission come up with a larger area or better language.

Discussion ensued regarding the cost and time to notify effected residents. This item will be discussed again at the next commission meeting.

### b. Discussion of Village Board Resolution 12-14 being “A Resolution Authorizing The Submission of an Application for a Text Amendment to the Village of Mettawa’s Zoning, Planning, and Appeals commission Regarding Penalties For Violation of Special Uses”

Attorney Smith explained the background of this request, stemming from the Pegaso Farm Hearing at which Mr. Prices’ Attorney raised the issue and the Board agreed that the Special Use Permit should have been amended, and then the Village Board recommended Zoning Code be amended for all Special Use Permits. It was felt that the current code allowing for immediate revocation of a Special Use Permit upon a violation, without allowing for a cure or response was a violation of due process. The recommended language requires the Village to send notice of a violation and allows the owner 14 days within which to cure the violation. The Board is recommending amending the zoning ordinance to give people who already have a Special Use Permit more rights than they do right now.

Discussion ensued and it was agreed that this item should proceed to a Public Hearing. There was also discussion regarding where this revision should run with the land and Attorney Smith stated that he believed that this commission did not recommend that in the Pegaso case but that the Board disagreed and felt it should run with the land. He also stated that “running with the land,” is not before this commission at this time.

Chairman Krusinski asked if the language before them is what will go in the ordinance and Mr. Smith responded that the commission is allowed to change or come up with whatever language they agree upon.

Chairman Krusinski also questioned the legality of the recommended language and discussion ensued. He asked the commission to take a look at the submitted language before the public hearing to make sure they agree with it.

It was agreed that there should be another informational meeting before the Public Hearing is scheduled, and to handle all issues at one Public Hearing. The next meeting will be the regularly scheduled monthly meeting on April 2, 2013.

Commissioner Busscher informed the commission that he will be unable to attend the April meeting.

**X. ADJOURNMENT**

With no further business to discuss, it was moved by Commissioner Busscher, seconded by Commissioner Meluso that the meeting be adjourned.

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 9:30 pm.

Cathy Nelson, Secretary